THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.12120 OF 2007

DATED 12.06.2007

BETWEEN

Shaik Hussain

… Petitioner

AND

The Principal Secretary to Government of Andhra Pradesh, Revenue Department, Secretariat, Hyderabad and others.

… Respondents

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.12120 OF 2007

ORDER:

The petitioner is resident of Abullapuram Village of Velugondu Mandal in Krishna District. He is a blacksmith by profession and

claims to be landless and poor person. He purchased the land admeasuring Acs.4.04 in survey No.389/C2 situated in the village from the fourth respondent under registered sale deed in August, 1991. Fourth respondent got the land by way of assignment made in her favour by the third respondent. Be that as it is, the petitioner alleges that third respondent regularized the sale by proceedings, dated 17.07.1998. This proceeding was challenged by the fourth respondent before the Revenue Divisional Officer, second respondent herein, who by order dated 21.06.2003, set aside the order of the third respondent and further directed to restore the land to fourth respondent. The petitioner then preferred revision to the second respondent. He passed orders on 03.11.2003 holding that neither the petitioner nor the fourth respondent are entitled for assignment of land and directed to take over possession of the land. The fourth respondent then preferred further Revision before the Chief Commissioner of Land Administration (CCLA), Hyderabad, who by order dated 15.09.2004 remitted the matter to Joint Collector for fresh disposal. In the meanwhile, the petitioner filed W.P.No.25122 of 2003, which was dismissed by this Court on 19.01.2005 as infructuous. Be that as it is, on remand, the second respondent passed orders on 05.02.2005 in favour of fourth respondent. The sale in favour of the petitioner was declared as illegal and void and a direction was given to restore the land to the fourth respondent. This order is impeached in the writ petition.

Learned counsel for petitioner submits that the petitioner is a landless poor person and therefore, the sale in his favour by the fourth respondent cannot be treated as illegal and void by reason of Section 3(5) of the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity). **Opposing** the writ petition, learned Assistant Government Pleader for Revenue (Assignment) submits that the petitioner is a blacksmith and even if he is not owning any land, he cannot be treated as eligible person for assignment. According to learned Assistant Government Pleader, the benefit of Section 3(5) of the Act is not applicable to the petitioner.

The submission of learned counsel for petitioner that the petitioner is a landless and poor person entitled for the benefit of Section 3(5) of the Act cannot be accepted for two reasons. As per Section 2(3) of the Act 'landless poor person' means 'a person who owns an extent of land not more than Acs.2.5 of wet land or Acs.5.00 of dry land and who has no other means of livelihood. The petitioner is admittedly blacksmith and therefore, he cannot be considered as a person without livelihood. A bare perusal of Section 3(5) of the Act would show that the Act has no application to an assigned land, which was purchased by landless poor person in good faith and for valuable

consideration from the original assignee or his transferee prior to the commencement of the Act. In this case, the petitioner admittedly purchased the subject land under registered document No.2007/1991, dated 16.08.1991. The Act – there is no denial or dispute; came into force with effect from 28.03.1977 and therefore, the petitioner cannot fall back on Section 3(5) of the Act. As observed by the second respondent, the petitioner purchased the assigned land, which is rendered void by Section 3(3) of the Act. The petitioner had knowledge that it is assigned land and his plea before the second respondent was that he was ignorant of the provisions of the Act. When the petitioner himself admits that he purchased the assigned land, by reason of a sale in 1991, this Court does not find any vice or infirmity in the impugned order.

The writ petition is accordingly dismissed in *limine*. No costs.

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(V.V.S.RAO,J)

12.06.2007.
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